

Idec notifies the Central Bank and the Ministry of Justice to investigate Burger King's "Black Friday R\$0.01 Pix" campaign.

The advertising action violates articles of the Consumer Protection Code, the General Personal Data Protection Law, and the Brazilian Civil Rights Framework for the Internet.

Today (12), Idec sent a notification to Senacon (the National Consumer Secretariat) and the Digital Rights Secretariat, both linked to the Ministry of Justice, and to the Central Bank, asking them to open an administrative process to investigate Burger King's conduct in the "Black Friday R\$0.01 Pix" campaign. This is because the advertising action violates articles of the Brazilian General Law on the Protection of Personal Data (LGPD), the Brazilian Civil Rights Framework for the Internet, and the Consumer Protection Code (CDC).

>>> [Check](#) (in Portuguese) the notification to the Ministry of Justice here (Protocol 08084.007017/2024-01)

>>> [Check](#) (in Portuguese) the notification made to the Central Bank (Protocol 2024/1059581)

The LGPD requires that consent for data processing be valid, free, informed, and specific; i.e., the consumer must be clearly aware of the purpose for which their data will be used (Art. 6, item I), with transparency about the different uses (Art. 6, item II) and appropriateness to the processing context (Art. 6, item III), and must expressly consent to each type of processing (Art. 7).

Also, in the Brazilian Civil Rights Framework for the Internet ("Marco Civil da Internet"), consent is broadly required and must be free, informed, and express, as provided for in a prominent clause (art. 7, VII, and IX).

In this case, consumers were not adequately informed that their data would be used to send promotional messages via Pix. This failure in the communication process constitutes a violation of consumers' rights since collecting and using their data for another unauthorized purpose is illegal.

Burger King's advertising campaign also violates the CDC, especially regarding abusive commercial practices through harassing advertising.

According to Article 39 of the CDC, it is forbidden for the supplier of products or services to use fraudulent or misleading means to promote their products or services. Sending R\$0.01 as a promotional message via Pix can be considered an invasive practice, as it uses a banking tool designed for financial transactions to convey advertising messages. This approach undermines consumers' expectations of privacy; they cannot imagine being targeted by commercial communications through a system as intimate and sensitive as their bank account.

In addition, the campaign should be classified as veiled and abusive advertising, in violation of articles 36 and 37 of the CDC, considering that advertising must be conveyed in such a way that the consumer can easily and immediately identify it—and this is not what happened.

“Burger King's action is problematic for several reasons, which is why we need a firm response from the authorities. The company has misused consumers' personal data to aggressively send promotional messages in an unexpected medium—in this case, their bank statement—something that may even have affected children and teenagers. Another problem is that by doing this on a massive scale, to millions of consumers, Burger King is also damaging public infrastructure like Pix, just as we see in private infrastructures with email spam, unwanted messages on WhatsApp, and abusive telemarketing on cell phones. As if it weren't bad enough that we're disturbed in several other ways, we shouldn't have to worry about one more. Finally, the advertised product itself is reprehensible, as it is characterized as containing nutrients that are harmful to health,” says Luã Cruz, coordinator of Idec's Telecommunications and Digital Rights program.

In addition to notifying Senacon and the Digital Rights Secretariat, Idec has sent a copy of the document to the Central Bank of Brazil, asking it to investigate the conduct of Transfeera Pagamentos S.A. and apply the appropriate penalties set out in the Pix Penalties Manual. In addition, Idec asks the Central Bank to analyze the development of new resolutions that limit the abusive use of the Pix system and prohibit its use for offering and advertising products and services.

The advertising campaign

During Black Friday 2024, Burger King, one of the largest fast food chains in Brazil, launched an advertising campaign that involved sending promotional messages via Pix, operated by Transfeera Pagamentos, for the symbolic amount of R\$0.01, generating significant discomfort and concern among consumers. According to public information, the company sent these messages via Pix bank transfers for the aforementioned amount to the current accounts of the 19 million customers registered in its loyalty program, “Clube BK.”